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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,066	04/16/2004	Diana Dirle	DIR-01-04	9959

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EXAMINER
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KEASEL, ERIC S

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/826,066	<b>Applicant(s)</b> DIRLE ET AL.	
	<b>Examiner</b> Eric Keasel	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on April 16, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I in the reply filed on August 31, 2005 is acknowledged. The traversal is on the ground(s) that applicant thinks that a search of one group would necessarily cover the subject matter of the non-elected group. This is not found persuasive because the elected claims can and are examined solely within class 222 (dispensers). The examiner has not searched where the method of treating an animal's paw would be searched (in class 119).

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 17-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 31, 2005.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 7-9, 11, and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Campos (US Patent Number 2,116,300).

Campos discloses a powder dispenser with a rotatable powder measure and a hinged end cap at the opposite end.

6. Claims 1-3, 6-9, 11, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Moe (US Patent Number 2,059,135).

Moe discloses a powder dispenser with a rotatable powder measure and a hinged end cap at the opposite end.

7. Claims 1-3, 8-10, 13, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Austin (US Patent Number 540,345).

Austin discloses a powder dispenser with a rotatable powder measure and a removable end cap at the opposite end. The rotatable powder measure has pins that mate with holes in the reservoir (see Fig. 3).

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8. Claims 1-3, 6-10, and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubo (US Patent Number 2,050,756).

Kubo discloses a powder dispenser with a rotatable powder measure and a removable end cap at the opposite end. The rotatable powder measure is hinged and the post of the hinge (9) extends into holes in the reservoir.

9. Claims 1-3, 6, 8-10, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Jopling (US Patent Number 934,192).

Jopling discloses a powder dispenser with a rotatable powder measure and a removable end cap at the opposite end.

10. Claims 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray (US Patent Number 2,523,426).

Gray discloses a powder dispenser with a rotatable powder measure that is removable.

11. Claims 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Spilo (US Patent Number 2,318,812).

Spilo discloses a powder dispenser with a rotatable powder measure that is removable.

12. Claims 1-10, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiltse (US Patent Number 415,010).

Wiltse discloses a powder dispenser with a rotatable powder measure and a removable end cap at the opposite end. The end cap has a square portion that fits into the square reservoir. The rotatable powder measure has pins that mate with holes in the reservoir (see Fig. 3).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Austin.

Austin discloses the square lid fitting around the reservoir rather than in it. The examiner takes official notice that modifying a square lid to have a portion that fits in the reservoir rather than around it is old and well known in the art for reasons that are old and well known in the art.

15. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo.

Kubo discloses the square lid fitting around the reservoir rather than in it. The examiner takes official notice that modifying a square lid to have a portion that fits in the reservoir rather than around it is old and well known in the art for reasons that are old and well known in the art.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (571) 272-4929. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Handwritten signature of Eric Keasel in cursive script, followed by the date 10/26/2005.

Eric Keasel  
Primary Examiner  
Art Unit 3754